



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

US EPA RECORDS CENTER REGION 5



414576

AUG 07 2012

REPLY TO THE ATTENTION OF:
SE-5J

GENERAL NOTICE LETTER
URGENT LEGAL MATTER
CERTIFIED MAIL RETURN RECEIPT REQUESTED

Union Carbide Corporation, a Subsidiary of Dow Chemical Corporation
Ms. Shannon S. Callahan
100 South Independence Mall West
Philadelphia, Pennsylvania 19106-2399

Re: General Notice for the Gary Development Landfill Site in Gary, Indiana
479 Cline Avenue, Gary, Lake County, Indiana
CERLIS Identification Number: IND077005916

Dear Ms. Callahan:

The U.S. Environmental Protection Agency, under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA) is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the Gary Development Landfill Site (the Site) located at 479 Cline Avenue, Gary, Indiana. Based on information presently available to EPA, it has been determined that Union Carbide Corporation (UCC) may be responsible under CERCLA for cleanup of the Site or costs EPA has incurred in cleaning up the Site.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), Potentially Responsible Parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare or the environment. Under Section 107(a) of CERCLA, PRPs may be held liable for all costs EPA incurs in responding to any release or threatened release of hazardous substances at the site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of the site, persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and/or selected the site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that UCC may be liable under Section 107(a) of CERCLA with respect to the Gary Development Landfill Site as an arranger who, by contract or agreement, arranged for the disposal, treatment or transportation of hazardous substances at the Site; and as a transporter who, by contract or agreement, accepted hazardous substances for transportation and disposal at, and selected the Site.

To date, EPA and the State of Indiana have taken several response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site.

- A Preliminary Assessment (PA) and Site Investigation (SI) to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site were completed on October 9, 1991.
- Removal actions to reduce immediate threat to the environment or human health posed by the Site were completed on September 27, 2002.
- An Expanded Site Inspection was completed on November 18, 2009.

Additional information about EPA's activities related to the Site is available at:
<http://www.epa.gov/region5/cleanup/garylndfill/index.html>.

Financial Concerns/Ability to Pay Settlements

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If UCC believes and can document that it falls within that category, please contact Nicole Wood-Chi, Associate Regional Counsel, at (312) 886-0664 for information on "Ability to Pay Settlements." In response, UCC will receive a package of information about the potential for such settlements and a form to fill out with information about UCC's finances. UCC will also be asked to submit financial records including federal income tax returns. Also, please note that because EPA has a potential claim against UCC, it must include EPA as a creditor if UCC files for bankruptcy.

Information to Assist

EPA would like to encourage communication between UCC, the Agency and other PRPs at the Site. EPA recommends that all PRPs meet to select a "steering committee" that will be responsible for representing the group's interests. Establishing a manageable group is critical to successful negotiations with EPA. If this is not possible, EPA encourages each PRP to select one person from its company or organization to represent its interests to EPA.

To assist UCC in its efforts to communicate, please find the following enclosed information:

1. A list of names and addresses of PRPs to whom this letter is being sent or has been sent;
2. A fact sheet that describes the Site.

EPA has established an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record is located at Gary Public Library, 220 West 4th Avenue, Gary, Indiana, and it is available to UCC and the public for inspection and comment. The Administrative Record is also available for inspection and comment at the Superfund Records Center, on the seventh floor at EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

EPA invites UCC to participate in formal negotiations with EPA to reach settlement providing for the PRPs to conduct or finance the response activities required at the Site.

Send UCC's response to this notice of potential liability to:

Deena Sheppard, Enforcement Specialist
Environmental Protection Agency – Region 5
Superfund Division (SE-5J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Please give this matter immediate attention and consider consulting an attorney. If UCC has any questions regarding this letter, please contact Nicole Wood-Chi, Associate Regional Counsel, at (312) 886-0664, e-mail wood.nicole@epa.gov. Thank you for prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sharon Jaffess', followed by a long horizontal line extending to the right.

Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch

Enclosures

1. Site Background
2. List of PRPs

Enclosure 1

Site Background

Location

The 62-acre Gary Development Landfill (GDL) Superfund Site is located at 479 North Cline Avenue, Gary, Lake County, Indiana. The Site is bound to the north and east by E & J Railway tracks, to the south by the Grand Calumet River, and to the west by AMG (a/k/a Vulcan Materials). Wetlands that have been contaminated by the GDL are present on the southeastern portion of the property along the Grand Calumet River bank.

Background

The GDL operated from 1975 to 1989. Although the GDL operated as a sanitary landfill accepting only commercial and municipal wastes, in 1996, the U. S. Environmental Protection Agency determined that the GDL had operated an illegal hazardous waste disposal facility. The hazardous substances deposited there included volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), heavy metals, polychlorinated biphenyls and pesticides.

The GDL has no proper liners, no engineered cover, and no functioning surface water run-on or runoff management systems in place. Currently, the Site is releasing hazardous substances to the adjacent wetland areas and the Grand Calumet River. EPA has determined that the actual and threatened release of hazardous substances from the GDL presents an imminent and substantial endangerment and on September 15, 2011, EPA placed GDL on the Superfund National Priorities List (NPL).

Permitting and Enforcement Activities

In early 1973, the GDL operator began to explore the development of a sanitary landfill in a sand pit which had collected water. On May 15, 1973, the Indiana Stream Pollution Control Board (ISPCB) approved the operator's proposal to dewater the sand pit. On June 19, 1973, the ISPCB granted the operator a construction permit that allowed preparatory construction work for a sanitary landfill to begin. On August 29, 1974, Indiana conducted its final inspection of GDL, which led to ISPCB's granting final approval to the operator to commence a sanitary landfill operation. The GDL began accepting solid waste on September 13, 1974. On February 20, 1975, the ISPCB sent the operator its operating permit.

Inspections conducted by the Indiana State Board of Health (ISBH) in April, May, and August of 1976, revealed that the landfill operator had discharged leachate into the Grand Calumet River without a National Pollution Discharge Elimination System (NPDES) permit. Analysis of leachate samples taken on August 27, 1976, indicated that significant amounts of heavy metals and

oils were pumped into the Grand Calumet River. On May 10, 1979, ISBH issued and filed a Notice of Violation and Proposed Agreed Order with the operator to address hazardous waste and leachate concerns. Other inspections conducted by ISBH noted that fly ash was used as a cover for GDL. As a result of the findings, the operator was found to be noncompliant with its construction and operating permit. A Recommended Order regarding the findings was issued on February 16, 1983.

In 1986, EPA issued an Administrative Complaint and Compliance Order that alleged that GDL accepted hazardous waste for disposal at the landfill, that had neither achieved interim status under Resource Conservation and Recovery Act (RCRA), nor obtained a RCRA permit. GDL's operations ceased in 1989.

The State conducted an inspection of GDL on February 18, 1992, and noted numerous violations of the Indiana Administrative Code and Federal Land Disposal Restrictions. On January 30, 1995, other landfill violations were noted. Also, an inspection conducted by EPA in 1996 revealed that landfill material had been pushed into the wooded wetland area adjacent to the Grand Calumet River.

In April 1996, EPA ordered GDL to comply with the RCRA closure procedures, post-closure maintenance and groundwater monitoring requirements. In 1997, GDL signed a Consent Agreement in which it agreed to use substantially all of its remaining assets to pay a penalty and to establish a trust fund of \$40,000 to be used at the Site towards closure costs. GDL dissolved in 1998.

In 2001, EPA issued GDL a Not-Under-Control status. During an inspection on January 8, 2002, IDEM staff identified several abandoned drums near the facilities portion of GDL and lagoon and not the actual landfill portion of the Site. As a result, EPA conducted a Time-Critical Removal Action and removed numerous containers of various substances (oils, paint, insecticides, antifreeze, and electrical capacitors) from the property.

On April 20, 2005, staff from IDEM conducted a site reassessment at the GDL. Groundwater and wetland sediment samples were collected. Elevated levels of metals, SVOCs, and pesticides were detected in soil and surface water samples taken from the wetlands.

On May 5, 2009, IDEM conducted an Expanded Site inspection at the GDL which confirmed that elevated levels (over three times the background concentrations) of metals, SVOCs, and pesticides were detected in the adjacent wetland samples.

In May 2011, EPA proposed the Site to the NPL. The Site was finalized on the NPL on September 16, 2011. The environmental threat of surface water migration pathway into the wetland qualified GDL for inclusion on the NPL. The wetland is inhabited by numerous state endangered species such as the marsh wren.

Enclosure 2

Gary Development Landfill
U.S. EPA Superfund Site ID Number: INDO77005916
General Notice Letter Recipients

1. Alcatel-Lucent USA Inc.
c/o Andrew C. Brought
Spencer Fane Britt & Brown LLP
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106

Alcatel-Lucent USA Inc.
c/o G. John Galasso, P.E.
Environmental Engineering Manager
600-700 Mountain Avenue
Murray Hill, New Jersey 07974

2. American Chemical Service, Inc.
P.O. Box 190
420 South Colfax Avenue
Griffith, Indiana 46319
3. Borg Warner Transmission Systems, Inc.
c/o Schiff Hardin, LLP
Attn: Joshua More
233 South Wacker Drive, Suite 6600
Chicago, Illinois 60606

BorgWarner Transmissions Systems Inc.
Richard Painter
700 South 25th Avenue
Bellwood, Illinois 60104

4. BP America, Inc.
Douglas S. Reinhart
Senior Counsel
BP Legal
150 West Warrenville Road, Mail Code 200-1W
Naperville, Illinois 60563

BP America, Inc.
Cynthia Kezos
Strategy Manager
Remediation Management
4 Centerpointe Drive
La Palma, California 90623

Gary Development Landfill
U.S. EPA Superfund Site ID Number: INDO77005916
General Notice Letter Recipients

5. Brandenburg Industrial Services Company
Thomas J. Little, President
2625 South Loomis Street
Chicago, Illinois 60608
6. Clark Material Handling, Inc.
524 West Chicago Avenue
East Chicago, Indiana 46312
7. Gariup Construction Company, Inc.
c/o David A. Buls, Esq.
Woodward Buls Blaskovich & King, LLP.
9223 Broadway
Merrillville, Indiana 46410

Gariup Construction Company, Inc
3965 Harrison Street
Gary, Indiana 46408
8. Georgia-Pacific LLC
John C. Bottini
Senior Counsel - Environmental
133 Peachtree Street, NE
43rd Floor
Atlanta, Georgia 30303
9. Independent Waste Systems
P.O. Box 6218
Gary, Indiana 46406
10. Independent Waste Systems
1520 Blaine Street
Gary, Indiana 46406
11. Industrial Disposal Company
a/k/a Industrial Disposal Corp.
1423 South Jackson Street
Louisville, Kentucky 40208

Gary Development Landfill
U.S. EPA Superfund Site ID Number: INDO77005916
General Notice Letter Recipients

12. Midwest Disposal, Inc.
c/o Swanson, Martin & Bell, LLP
Attn: Elizabeth S. Harvey
330 North Wabash, Suite 3300
Chicago, Illinois 60611

Midwest Disposal, Inc.
Michael Bobruk, President
6514 East 109th Avenue
Crown Point, Indiana 46307
13. Mr. James Nowacki
148 North Hancock Street
Gary, Indiana 46403
14. Republic Services, Inc.
c/o Thomas A. Ryan
Lathrop & Gage, LLP
2345 Grand Boulevard, Suite 2200
Kansas City, Missouri 64108

Republic Services, Inc.
18500 North Allied Way
Phoenix, Arizona 85054
15. Tyco International
on behalf of Ansul, Inc.
Attn: Joseph L. Schohn
9 Roszel Road
Princeton, New Jersey 08540
16. Union Carbide Corporation,
A Subsidiary of Dow Chemical Corporation
c/o Shannon S. Callahan
100 South Independence Mall West
Philadelphia, Pennsylvania 19106
17. Waste Management
a/k/a Calumet Waste Systems, Inc.
Attn: Francis Chin
1001 Fannin, Suite 4000
Houston, Texas 77002

bcc: David Linnear
Nicole Wood-Chi
Deena Sheppard
Superfund Records Center